

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket No. 14920US01)

***In the Application of:***

Anand Pande

***Serial No.:*** 10/692,957

***Filed:*** October 24, 2003

***For:*** SYSTEM AND METHOD FOR DESIGNING  
DATA STRUCTURES

***Examiner:*** Richard B. Franklin

***Group Art Unit:*** 2181

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Transmitted via the Office electronic filing system  
June 10, 2010.

**REQUEST FOR RECONSIDERATION OF  
USPTO RECALCULATION OF  
PATENT TERM ADJUSTMENT IN VIEW OF *WYETH***

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

Sir:

The applicant respectfully requests reconsideration of the patent term adjustment indicated in the enclosed print-out of the current United States Patent and Trademark Office (USPTO) patent term adjustment determination from PAIR and the *Decision On Request For Recalculation Of Patent Term Adjustment In View Of Wyeth And Notice Of Intent To Issue Certificate Of Correction* (PTOL-549G (04/10)) ("the Decision") mailed May 11, 2010, respecting the present application. This application for patent term adjustment is being filed within the later of one month or 30 days after the mailing date of the Decision.

This request is accompanied by the fee set forth in § 1.18(e) (\$200).

This request includes below a statement of the facts involved in sufficient detail to allow the United States Patent and Trademark Office (USPTO) to verify the correct patent term adjustment.

The Applicant's calculated patent term adjustment is 337 days. The Decision reported a patent term adjustment of 294 days. Thus, the Applicant is requesting an increase in the patent term adjustment.

The basis under 37 CFR § 1.702 for the adjustment is as follows:

## **Positive Patent Term Adjustment**

### **Three Year Guarantee**

#### **(35 USC § 154(b)(1)(B))**

The USPTO calculation of the patent term adjustment under the three-year deadline for issuing a patent after its filing date was 0 days. The Applicant disagrees with this determination because the patent term adjustment on this ground should instead be 1065 days, minus 1022 days consumed by an appeal, for a net adjustment of 43 days.

Specifically, the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR shows that:

- the actual filing date of the application was October 24, 2003,
- the third anniversary of the actual filing date was October 24, 2006,
- the first request for continued examination of the application under 35 USC 132(b) was filed on September 23, 2009;

(Use if applicable) The patent term adjustment under the three-year rule was reduced by an appeal.

- review by the Board or a Federal court began on the date the Notice of Appeal was filed, i.e. October 5, 2006,
- the time consumed by review by the Board or a Federal court ended on the date of a Board of Patent Appeals and Interferences decision, i.e. July 23, 2009;
- the time consumed by the appeal thus ended on July 23, 2009, after an interval of 1022 days.
- The patent term adjustment under the three-year rule of 1065 days, reduced by appeal time of 1022 days, is thus 43 days.

**Three Year Guarantee  
(35 USC § 154(b)(1)(B))**

	<b>Patent Term Adjustment (days)</b>
<b>USPTO Calculation in Recalculation Request</b>	0
<b>Applicant Calculation</b>	43

**Conclusion**

The Applicant requests modification of the patent term adjustment as indicated above. As shown in the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR, the net patent term adjustment proposed by the Applicant is thus 337 days.

Please charge any fees or credit any overpayment of fees presently required to McAndrews, Held & Malloy, Ltd., Deposit Account No. 13-0017.

Respectfully submitted,

McANDREWS, HELD & MALLOY, LTD.

Dated: June 10, 2010

By: /Michael T. Cruz/  
Michael T. Cruz  
Reg. No. 44,636  
Attorney for Applicant

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10/8/2009	Disposal for a RCE / CPA / R129		
9/23/2009	Request for Continued Examination (RCE)		
9/23/2009	Workflow - Request for RCE - Begin		
9/22/2009	PTA 36 Months		
7/23/2009	Mail BPAI Decision on Appeal - Affirmed		
7/22/2009	BPAI Decision - Examiner Affirmed		
4/3/2008	Docketing Notice Mailed to Appellant		
4/1/2008	Assignment of Appeal Number		
3/11/2008	Appeal Awaiting BPAI Docketing		
11/14/2007	Mail Reply Brief Noted by Examiner		
11/9/2007	Reply Brief Noted by Examiner		
10/14/2007	Date Forwarded to Examiner		
10/1/2007	Reply Brief Filed		
9/30/2007	Exam. Ans. Review Complete		
7/30/2007	Mail Examiner's Answer	86	
7/23/2007	Examiner's Answer to Appeal Brief		
6/3/2007	Appeal Brief Review Complete		
6/3/2007	Date Forwarded to Examiner		

1065.00		
-1022.00		
86.00		





1/30/2004	Application Return from OIPE		
1/30/2004	Application Return TO OIPE		
1/30/2004	Application Dispatched from OIPE		
1/30/2004	Application Is Now Complete		
1/22/2004	Cleared by OIPE CSR		
1/19/2004	IFW Scan & PACR Auto Security Review		
10/24/2003	Initial Exam Team nn		
<b>PTA</b>		<b>PTO</b>	<b>APPL</b>
>>>>>>>>>>>>>>		(Days)	(Days)
		355	61
		<b>294 Days</b>	

PTO (Days)	APPL (Days)
398	61
337 Days	

10/692,957	SYSTEM FOR DESIGNING DATA STRUCTURES	06-09-2010::10:59:49
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### Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/692,957

Filing or 371(c) Date:	10-24-2003	USPTO Delay (PTO) Delay (days):	-
Issue Date of Patent:	02-23-2010	Three Years:	-
Pre-Issue Petitions (days):	-	Applicant Delay (APPL) Delay (days):	-
Post-Issue Petitions (days):	-	Total PTA (days):	294
USPTO Adjustment(days):	-	Explanation Of Calculations	

### Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
05-06-2010	Petition Decision - Granted		
05-05-2010	Petition Entered		
02-23-2010	Recordation of Patent Grant Mailed		
02-03-2010	Issue Notification Mailed		
09-22-2009	PTA 36 Months		
02-23-2010	Patent Issue Date Used in PTA Calculation		
01-11-2010	Dispatch to FDC		
01-04-2010	Response to Reasons for Allowance		
01-09-2010	Application Is Considered Ready for Issue		
01-04-2010	Issue Fee Payment Verified		
01-04-2010	Issue Fee Payment Received		
12-03-2009	Mail Notice of Allowance		
11-25-2009	Document Verification		
11-23-2009	Notice of Allowance Data Verification Completed		
11-23-2009	Case Docketed to Examiner in GAU		
11-23-2009	Examiner's Amendment Communication		
10-08-2009	Date Forwarded to Examiner		
10-08-2009	Date Forwarded to Examiner		
09-23-2009	Request for Continued Examination (RCE)		
10-08-2009	Disposal for a RCE / CPA / R129		
09-23-2009	Workflow - Request for RCE - Begin		
07-23-2009	Mail BPAI Decision on Appeal - Affirmed		
07-22-2009	BPAI Decision - Examiner Affirmed		
04-03-2008	Docketing Notice Mailed to Appellant		
04-01-2008	Assignment of Appeal Number		
03-11-2008	Appeal Awaiting BPAI Docketing		
11-14-2007	Mail Reply Brief Noted by Examiner		
11-09-2007	Reply Brief Noted by Examiner		
10-14-2007	Date Forwarded to Examiner		
10-01-2007	Reply Brief Filed		
09-30-2007	Exam. Ans. Review Complete		

07-30-2007	Mail Examiner's Answer	86
07-23-2007	Examiner's Answer to Appeal Brief	⬆
06-03-2007	Appeal Brief Review Complete	⬆
06-03-2007	Date Forwarded to Examiner	⬆
04-27-2007	Appeal Brief Filed	⬆
04-27-2007	Request for Extension of Time - Granted	⬆
02-27-2007	Notice -- Defective Appeal Brief	⬆
02-26-2007	Appeal Brief Review Complete	⬆
02-26-2007	Date Forwarded to Examiner	⬆
01-05-2007	Defective / Incomplete Appeal Brief Filed	⬆
01-05-2007	Appeal Brief Filed	⬆
01-05-2007	Request for Extension of Time - Granted	
10-05-2006	Notice of Appeal Filed	61
10-05-2006	Request for Extension of Time - Granted	⬆
07-20-2006	Mail Advisory Action (PTOL - 303)	⬆
07-18-2006	Advisory Action (PTOL-303)	⬆
07-12-2006	Date Forwarded to Examiner	⬆
07-05-2006	Amendment after Final Rejection	⬆
05-05-2006	Mail Final Rejection (PTOL - 326)	⬆
05-01-2006	Final Rejection	
02-27-2006	Date Forwarded to Examiner	
02-14-2006	Response after Non-Final Action	
11-14-2005	Mail Non-Final Rejection	
11-09-2005	Non-Final Rejection	
10-06-2005	Case Docketed to Examiner in GAU	
09-27-2005	Date Forwarded to Examiner	
09-23-2005	Response to Election / Restriction Filed	
09-19-2005	Mail Restriction Requirement	269
09-16-2005	Requirement for Restriction / Election	⬆
08-05-2005	Case Docketed to Examiner in GAU	⬆
07-27-2005	Case Docketed to Examiner in GAU	⬆
06-28-2005	Case Docketed to Examiner in GAU	⬆
06-14-2005	Case Docketed to Examiner in GAU	⬆
06-21-2004	IFW TSS Processing by Tech Center Complete	⬆
06-21-2004	Case Docketed to Examiner in GAU	⬆
06-17-2004	Transfer Inquiry to GAU	⬆
06-17-2004	Transfer Inquiry to GAU	⬆
06-08-2004	Transfer Inquiry to GAU	⬆
01-30-2004	Application Return from OIPE	⬆
01-30-2004	Application Return TO OIPE	⬆
01-30-2004	Application Dispatched from OIPE	⬆

01-30-2004	Application Is Now Complete	⬆
01-22-2004	Cleared by OIPE CSR	⬆
01-19-2004	IFW Scan & PACR Auto Security Review	⬆
10-24-2003	Initial Exam Team nn	⬆

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MCANDREWS HELD & MALLOY, LTD  
500 WEST MADISON STREET  
SUITE 3400  
CHICAGO, IL 60661

Mail Date: 05/11/2010

<b>Applicant</b>	: Anand Pande	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7668983	: RECALCULATION OF PATENT
<b>Issue Date</b>	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/692,957	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 10/24/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **294** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.